

SENATE BILL No. 173

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-28-16; IC 16-29-6.

Synopsis: Nursing facility moratorium. Defines "under development" for purposes of the moratorium on nursing facility comprehensive care beds. Prohibits the state department of health from approving the licensure of comprehensive care health facilities or new or converted comprehensive care beds. Prohibits residential nursing care facility beds from being converted to comprehensive care beds. Adds exemptions for: (1) health facilities under development as of June 30, 2014; (2) certain replacement facilities; and (3) continuing care retirement communities. Specifies that the state department of health makes the final determination concerning whether an entity is under development.

Effective: Upon passage; June 30, 2014; July 1, 2014.

Miller Patricia

January 8, 2014, read first time and referred to Committee on Health and Provider Services.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 173

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-67.1 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: **Sec. 67.1. "Comprehensive care health**
4 **facility", for purposes of IC 16-28-16, has the meaning set forth in**
5 **IC 16-28-16-2.5.**

6 SECTION 2. IC 16-18-2-316.6 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2014]: **Sec. 316.6. "Replacement facility", for**
9 **purposes of IC 16-28-16, has the meaning set forth in**
10 **IC 16-28-16-3.2.**

11 SECTION 3. IC 16-28-16-2, AS ADDED BY P.L.229-2011,
12 SECTION 163, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2014]: Sec. 2. As used in this chapter,
14 "comprehensive care bed" means a bed that:

15 (1) is **within a comprehensive care health facility that is**
16 licensed or is to be licensed under IC 16-28-2;



- (2) functions as a bed **within a comprehensive care health facility** licensed under IC 16-28-2; or
 (3) is **otherwise** subject to this article.

The term does not include a comprehensive care bed that will be used solely to provide specialized services and that is subject to IC 16-29.

SECTION 4. IC 16-28-16-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 2.5. As used in this chapter, "comprehensive care health facility" means a health facility that provides nursing care, room, food, laundry, administration of medications, special diets, and treatments and that may provide rehabilitative and restorative therapies under the order of an attending physician.**

SECTION 5. IC 16-28-16-3, AS ADDED BY P.L.229-2011, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3. As used in this chapter, "replacement bed" means a comprehensive care bed that is relocated from one (1) comprehensive care health facility to a health facility another comprehensive care health facility that is licensed or is to be licensed under this article. This term includes comprehensive care beds that are certified for participation in:**

- (1) the state Medicaid program; or
 (2) both the state Medicaid program and federal Medicare program.

SECTION 6. IC 16-28-16-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3.2. As used in this chapter, "replacement facility" means a new comprehensive care health facility licensed after June 30, 2014, that:**

- (1) **is constructed to take the place of an existing comprehensive care health facility that is operated by the same person that holds the license to operate the existing comprehensive care health facility on June 30, 2014;**
 (2) **is constructed within the same county of the existing comprehensive care health facility licensed before July 1, 2014; and**
 (3) **contains no more comprehensive care beds than the existing comprehensive care health facility licensed before July 1, 2014.**

SECTION 7. IC 16-28-16-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3.5. As used in this chapter,**



"under development" refers to an effort:

(1) to add, construct, or convert comprehensive care beds in a comprehensive care health facility licensed or to be licensed under this article; and

(2) that meets the following:

(A) Architectural plans have been completed.

(B) Funding to construct the comprehensive care health facility has been secured and is actively being drawn upon or otherwise used to further and complete construction.

(C) Zoning requirements have been met.

(D) Construction plans for the comprehensive care health facility have been submitted to the state department and the division of fire and building safety.

(E) Active and ongoing construction activities progressing to completion of the project are occurring at the project site.

SECTION 8. IC 16-28-16-4, AS ADDED BY P.L.229-2011, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) Except as provided in subsection (b), the state department may not approve **the following:**

(1) The licensure of comprehensive care health facilities or new or converted comprehensive care beds.

(2) The certification of new or converted comprehensive care beds for participation in the state Medicaid program unless the statewide comprehensive care bed occupancy rate is more than ninety-five percent (95%), as calculated annually on January 1 by the state department of health.

Beds in a health facility that provides residential nursing care under IC 16-28 may not be converted to comprehensive care beds.

(b) This section does not apply to the following:

(1) A comprehensive care health facility that is licensed or to be licensed under IC 16-28 that is under development as of June 30, 2014.

(+) (2) A comprehensive care health facility that:

(A) seeks a replacement bed exception;

(B) is licensed or is to be licensed under this article or is under development as of June 30, 2014;

(C) applies to the state department of health to certify a comprehensive care bed for participation in the Medicaid program if the comprehensive care bed for which the health facility is seeking certification is a replacement bed for an existing comprehensive care bed;



(D) applies to the division of aging **before July 1, 2014**, in the manner:

(i) described in subsection (c); and

(ii) prescribed by the division; and

(E) meets the licensure, survey, and certification requirements of this article.

~~(2)~~ **(3)** A small house health facility approved under section 6 of this chapter.

(4) A replacement facility, whether or not the replacement facility is under development before July 1, 2014. The existing comprehensive care health facility that is being replaced by the replacement facility:

(A) must no longer be licensed as a comprehensive care health facility sixty (60) days after the replacement facility obtains its license from the state department; and

(B) may transfer, and the replacement facility may accept, all of the comprehensive care beds from the existing comprehensive care health facility to the replacement facility without seeking a replacement bed exception.

(5) A continuing care retirement community that was registered under IC 23-2 before July 1, 2014, and continuously maintains registration under IC 23-2. If a continuing care retirement community fails to maintain registration under IC 23-2 after June 30, 2014, the comprehensive care beds, including beds certified for Medicaid or Medicare, that the continuing care retirement community previously operated are not forfeited as long as the continuing care retirement community continues to comply with the licensure and certification requirements of this article.

(c) An application made under subsection ~~(b)(1)~~ **(b)(2)** for a replacement bed exception must include the following:

(1) The total number and identification of the existing comprehensive care beds that the applicant requests be replaced by health facility location and by provider.

(2) If the replacement bed is being transferred to a different comprehensive care health facility with the same ownership, a provision that provides the division of aging written verification from the health facility holding the comprehensive care bed certification that the health facility has agreed to transfer the beds to the applicant health facility.

(3) If the replacement bed is being transferred to a different



comprehensive care health facility under different ownership, a provision that provides the division of aging a copy of the complete agreement between the comprehensive care health facility transferring the beds and the applicant comprehensive care health facility.

(4) Any other information requested by the division of aging necessary to evaluate the transaction.

A replacement bed may be relocated after June 30, 2014, under this section only if the comprehensive care health facility applies to the division of aging before July 1, 2014, and complies with or will comply with section 7 of this chapter.

(d) The state department shall make the final determination concerning whether an entity has met or is meeting the requirements of this chapter of being under development.

SECTION 9. IC 16-28-16-5, AS ADDED BY P.L.229-2011, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. Except in the case of an emergency or a disaster, Medicaid certification of an existing comprehensive care bed may not be transferred to ~~a new~~ **another** location until the ~~new~~ **receiving comprehensive care health** facility is seeking certification of the bed.

SECTION 10. IC 16-28-16-6, AS ADDED BY P.L.229-2011, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A person planning to construct a small house health facility shall apply to the state department for a license under this article.

(b) An applicant under this section, including an entity related to the applicant through common ownership or control, may apply to the state department for Medicaid certification of not more than fifty (50) comprehensive care beds for small house health facilities per year.

(c) The state department may not approve certification of more than one hundred (100) new comprehensive care beds designated for small house health facilities per year.

(d) The state department shall approve an application for Medicaid certification for a small house health facility:

(1) in the order of the completed application date; and

(2) if the applicant meets the definition of a small house health facility and the requirements of this section.

(e) A person that fails to complete construction and begin operation of a small house ~~comprehensive care~~ health facility within twelve (12) months after the state department's approval of the application forfeits the person's right to the Medicaid certified comprehensive care beds



- 1 approved by the state department if:
- 2 (1) another person has applied to the state department for
- 3 approval of certified comprehensive care beds for participation in
- 4 the state Medicaid program **for** at least one (1) small house health
- 5 facility; and
- 6 (2) the person's application was denied for the sole reason that the
- 7 maximum number of Medicaid certified comprehensive care beds
- 8 specified in subsection (c) had been approved for small house
- 9 health facilities.
- 10 SECTION 11. IC 16-28-16-7, AS ADDED BY P.L.229-2011,
- 11 SECTION 163, IS AMENDED TO READ AS FOLLOWS
- 12 [EFFECTIVE UPON PASSAGE]: Sec. 7. This chapter expires ~~June 30,~~
- 13 ~~2014.~~ **June 30, 2019.**
- 14 SECTION 12. IC 16-29-6 IS REPEALED [EFFECTIVE JUNE 30,
- 15 2014]. (Comprehensive Care Health Facilities and Medicaid Services).

